

NOV 16 2006

Application No.: 10/732,834  
Conf. # 6764

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Docket No.: B0932.70222US00

**REMARKS**

In response to the Office Action mailed October 5, 2006, Applicants respectfully request reconsideration. Claims 1-50, 52 and 127-199 are pending. Claims 137-181 are allowed and claims 24, 50, 129, 130, 132, 133, 193, 197 and 198 have been indicated to be allowable if re-written into independent form. Claims 1-23, 25-49, 127, 128, 131, 134-136, 182-192, 194-196 and 199 stand rejected. Applicants respectfully traverse these rejections.

***Claims Indicated Allowable***

The Applicants thank the Examiner for indicating that claims 137-181 are allowed and that, claims 24, 50, 129, 130, 132, 133, 193, 197 and 198 would be allowable if re-written in independent form including all of the limitations of the base claim and any intervening claims.

Applicants have elected to not re-write claims 24, 50, 129, 130, 132, 133, 193, 197 and 198 at this time, as the Applicants believe that, for the reasons set forth below, the independent claims from which these claim depend are allowable.

***Interview Summary***

The Applicants' undersigned representative, Neil Ferraro, thanks Examiner Patterson for the courtesy extended during a Telephone Interview held on November 14, 2006 wherein the rejection of the claims over Pierre in view of Datson was discussed. A summary of the substance of the Interview is presented in the below discussion.

***Claim Rejections***

Independent claims 1, 27 and 182 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Pierre et al. 6,467,195 in view of Datson 4,856,207. Independent claim 127 stands rejected under 35 U.S.C. §103(a) as being unpatentable over the references applied to claims 1, 27 and 182 in view of Aufnacker 3,221,384 and Veylupek 5, 755, 044.

In the Office Action, there is a recognition that Pierre fails to teach a lacing region in the upper portion of the boot and tightenable in the upper region and therefore Datson is relied upon for the teaching of an upper lace tightenable in the upper region. It is concluded that it would have

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been obvious to one of ordinary skill in the art at the time the invention was made to place a lace in the upper portion of Pierre "to allow the user to independently tighten the upper portion of the boot and the lower portion of the boot to the tightness desired for each portion, which tightness may be different from each other". As discussed with Examiner Patterson, the Applicants respectfully disagree and submit that a *prima facie* case of obviousness has not been made.

As Examiner Patterson pointed out, Pierre already teaches a tightening device in the upper region which can be tightened independently of the lace. The Applicant's representative agreed and pointed to col. 4, lines 33-35 for support. Accordingly, based on this alone, it appears that the motivation articulated in the Office Action is misplaced, as one of skill in the art would not have been motivated to modify Pierre to achieve a functionality it already achieves. No reason was provided in the Office Action for employing an upper lace that provides tightening independent of the lower lace as opposed to the strap of Pierre that already provides tightening independent of the lower lace.

In fact, as discussed in the Interview, Pierre suggests avoiding laces in the upper region and instead teaches the use of the straps for a reason. In the Background of Pierre at col. 1, line 61-67, Pierre suggests that laces in the upper region are disadvantageous because it is often necessary to loosen them by hand, at least up to the instep, to allow insertion in or removal from the boot. On the other hand, employing straps appears to overcome this disadvantage, allowing a rider to quickly unstrap the boot and allow quick insertion or removal of her foot. Based on the teachings of Pierre, one of skill in the art simply would not have been motivated to replace the Pierre straps with laces, because, according to Pierre, this would be disadvantageous.

Examiner Patterson agreed. Accordingly, the Applicants respectfully submit that the rejection of the claims should be withdrawn and the claims should be allowed.

### **Conclusion**

The application should now be in condition for allowance. A notice to this effect is respectfully requested. If the Examiner believes, after this response, that the application is not in

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condition for allowance, the Examiner is requested to call the below representative at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicants hereby request any necessary extension of time. The Applicants believe that no fee is due even with the addition of the new claims. If, however, there is a fee occasioned by this response, including an extension fee, please charge Deposit Account No. 23/2825.

Respectfully submitted,

By   
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